UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/645,476	08/20/2003	Peter Wanat	HAV 301	8005

50488 7590 12/27/2007 ALLEMAN HALL MCCOY RUSSELL & TUTTLE LLP 806 SW BROADWAY SUITE 600 PORTLAND, OR 97205-3335	**EXAMINER** HSU, RYAN

ART UNIT	PAPER NUMBER
3714	

MAIL DATE	DELIVERY MODE
12/27/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

PTOL-90A (Rev. 04/07)

	Application No.	Applicant(s)
Office Action Summary	10/645,476	WANAT, PETER
	Examiner	Art Unit
	Ryan Hsu	3714

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>20 November 2007</u>.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☐ Claim(s) *1-15,18,19,21-30,32 and 34-38* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☐ Claim(s) *1-15,18,19 and 21-30, 32, 34-38* is/are rejected.

7)☐ Claim(s) *31* is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.

5) ☐ Notice of Informal Patent Application

6) ☐ Other: _____.

DETAILED ACTION

In response to the amendments filed on 11/20/07, claims 1,3, 18, 21, 30-32, and 34-37

have been amended and claims 20 and 33 have been canceled without prejudice and claim 38 has

been newly added. Claims 1-15 and 18-19, 21-32, and 34-38 are pending in the current

application.

Allowable Subject Matter

Previously claims 33-34 were indicated as allowable subject matter. In light of the claim

amendments and the new art cited below, the allowability of the subject matter has been retracted

and has been addressed in the new search and action listed below.

Claim 31 would be allowable if rewritten to overcome the rejection(s) under 35

U.S.C. 101 and 112, 2nd paragraph, set forth in this Office action and to include all of the

limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter:

Regarding claim 31, the prior art of record does not teach or suggest using a "trust-up event

includes a player character subjecting itself to a medical examination, in a vicinity of a non-

player character".

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or
any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and
requirements of this title.

Claims 1-15, 18-19, 21-32, and 34-38 are rejected under 35 U.S.C. 101 because the

claimed invention is directed to non-statutory subject matter. Claims 1-21 and 24-26 are rejected

under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

The claims of the instant application are directed towards "method for controlling a non-player character in a computer game, the method comprising", "providing a squad of user-commandable characters, the squad including a player character and at least one non-player character", and various other limitations that are directed towards programming aspects of a computer program.

Additionally, the method is directed towards the changing of a trust state of the non-player character based on a game event. However, a method must meet the basic statutory rules of producing a <u>useful, concrete, and tangible result</u>. Currently the claims are directed towards the recitation of a program being passed between a computer medium to another and determination functions that are completed within the functionality of the program itself. Therefore the current claims are directed towards the processing of data and produce no real world <u>tangible result</u>. The operations of the methodology of the instant application therefore only recite the passing of data in a computer program and fail to interact with the user in a tangible fashion in which the user is able to realize the result of the methodology performed by the computer program of the instant application. Therefore the claims currently fail to possess a certain level of "real world" value. No interaction or operation that occurs with the methodology of the claims interacts with the "real world" as all the operations that occur are happening in a virtual space that are not realized by the player. Therefore the claims currently fail to meet the standards set forth for statutory subject matter. *See MPEP 2106 – regarding patentable subject matter with computer-related inventions.*

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1-2, 10-14 and 37 are under 35 U.S.C. 103(a) as being unpatentable by the

video game Fall Out 2 as evidenced by "Desslock: "Fall Out 2: game review" and

www.nma-fallout.com and further in view of Baldurs Gate 2 as evidenced by "Balsdurs

Gate 2: Shadows of Amn" by Al Giovetti.

Regarding claims 1 and 37, Fall Out 2 discloses a method and a game program stored on

a computer readable medium for controlling a non-player character in a computer game, that

provides a squad of user-commandable characters, the squad including a player including a

player character and at least one non-player character, the non-player character being

commandable via the player character (*see "Desslock"*); detecting a predefined game event (*see*

www.nma-fallout.com, 'character system'); and adjusting a current emotional state of the non-

player character based on the game event (*ie: different options and items can change the*

character settings and effect the different emotional traits of the characters)(*see www.nma-*

fallout.com, 'traits', 'npcs', 'skills'). Additionally, Fall Out 2 discloses a method that allows for

a selection of a non-player character reaction based on the current emotional state of a non-

player character (*ie: different non- player characters can have traits adjusted based on different*

game events)(*see www.nma-fallout.com, 'npcs'*). Furthermore, Fall Out 2 discloses an attribute

with the character wherein when the emotional state of the non-player character is beyond a

predetermined level (*ie: a characteristic or attribute of the player character*) the non-player

character reaction is selected from the group consisting of a reaction that inhibits the ability of

the non-player character to attack or follow commands of the player character (*ie: see 'npc'*

"sulik" who attacks when he has reached the 'slaver' status see www.nma-fallout.com *'npcs'*), a

self destructive act, an act of incapacitation (*ie: hit points have been reduced to 'zero' and the*

non-player character is dead and can no longer move or help), and a reaction of initiating or

cooperating in an attack upon an enemy. However, the prior art of record is silent with respect to

specifically teaching a trust state and instead wherein the non-player character reaction includes

being unable to perform a command from the player character when the trust state of the non-

player character is below a predetermined level.

In an analogous rpg game, Giovetti teaches that Baldur's gate 2 there exists a reputation

state and non-player characters (npcs) react to the alignment of the player character based on the

reputation and conversation choices made. In the examples taught, "too many good choices and

the evil players, like Edwin, leave the party forever". This shows that when the emotional state

of the non-player characters has reached below a certain threshold the interaction between the

player character and the npcs change and therefore you are unable to interact or command them.

As such, Baldur's Gate 2 teaches an emotional relationship between the player characters and the

npcs where the actions will define a state that can result in the two characters from interacting

with one another. One would be motivated to incorporate such a feature in order to create a

more realistic approach to the game play. By creating an emotional state within the game, it can

simulate the interaction between individual characters and therefore create a more exciting

experience for the player that would make the game more realistic. Therefore it would have

been obvious to one of ordinary skill in the art at the time the invention was made to incorporate

the features of Baldur's Gate 2 with that of Fall Out 2 to create a emotional trust state in a game

to create a more realistic feeling in the game play.

Regarding claim 2, Fall Out 2 discloses a method wherein movement of the player

character is controlled by direct user input from a user input device, and movement of the non-

player character is controlled by the computer game program (*see "Desselock"*).

Regarding claims 10-14, Falls Out 2 discloses a role playing game that allows a user to

incorporate a squad of user-commandable characters and a predefined game event that adjusts a

current emotional state of a non-player character based on the game event. Additionally, the

game allows a user to select a non-player character reaction based on the current emotional state

of the non-player character. Furthermore, Fall Out 2 implements a method that adjusts the

characteristic traits of the characters and the non-player characters based on possession of

weapons or ammunition that can cause an increase or decrease in the respective traits (*see nma,

'basic traits', 'skills', 'karma' and 'npcs'*). Fall Out 2 also incorporates medicine to adjust the

traits of the player characters and a GUI indicator that present the user with current state of the

different attributes and skills (*see nma, 'Character Stats', 'Items'*). However, although Fall Out

2 teaches several different types of emotional traits it fails to teach specifically a "fear state".

These special 'traits' or 'states' symbolize different aspects of human behavior and emotion.

They are based upon the same principles well known in the gaming arts of where different

gaming events will effect these different skills or attributes (*ie: health*) and therefore can increase

or decrease these traits in order to mimic attributes of the virtual players. The options available

to a programmer are limitless however they are nonetheless the same from a technical

perspective. As a result there is no patentable distinction from the weapons affecting strength or

health or any other skill state. Therefore it would have been a simple matter of design choice

and would have been obvious to one of ordinary skill in the art at the time the invention was

made to incorporate any various types of traits such as a "fear state".

Claims 3-9, 15, 18-19, 21-30, 32, 34-36, and 38 are rejected under 35 U.S.C. 103(a) as

being unpatentable over Fall Out 2 and Baldur's Gate 2 as applied to claims above, and

further in view of <u>Shatterfield's Eternal Darkness: Sanity's Requiem</u> **Review.**

Regarding claims 3-9, 15 and 19, Fall Out 2 teaches a game that incorporates a squad of

player characters and non-player characters where different character traits may be incorporated

and selectively altered based upon different game events and items that are used by the different

player characters. Furthermore, Fall Out 2 implements a method that adjusts the characteristic

traits of the characters and the non-player characters based on possession of weapons or

ammunition that can cause an increase or decrease in the respective traits (*see nma, 'basic traits',*

'skills', 'karma' and 'npcs'). Fall Out 2 also incorporates medicine to adjust the traits of the

player characters and a GUI indicator that present the user with current state of the different

attributes and skills (*see nma, 'Character Stats', 'Items'*). However, although Fall Out 2 teaches

several different types of emotional traits it fails to teach specifically a "fear state". These

special 'traits' or 'states' symbolize different aspects of human behavior and emotion. They are

based upon the same principles well known in the gaming arts of where different gaming events

will effect these different skills or attributes (*ie: health*) and therefore can increase or decrease

these traits in order to mimic attributes of the virtual players. The options available to a

programmer are limitless however they are nonetheless the same from a technical perspective.

As a result there is no patentable distinction from the weapons affecting strength or health or any

other skill state.

In arguendo, Giovetti teaches in Baldur's gate 2 there exists a reputation state and non-

player characters (npcs) react to the alignment of the player character based on the reputation and

conversation choices made. In the examples taught, "too many good choices and the evil

players, like Edwin, leave the party forever". This shows that when the emotional state of the

non-player characters has reached below a certain threshold the interaction between the player

character and the npcs change and therefore you are unable to interact or command them. As

such, Baldur's Gate 2 teaches an emotional relationship between the player characters and the

npcs where the actions will define a state that can result in the two characters from interacting

with one another. One would be motivated to incorporate such a feature in order to create a

more realistic approach to the game play. By creating an emotional state within the game, it can

simulate the interaction between individual characters and therefore create a more exciting

experience for the player that would make the game more realistic. Therefore it would have

been obvious to one of ordinary skill in the art at the time the invention was made to incorporate

the features of Baldur's Gate 2 with that of Fall Out 2 to create a emotional trust state in a game

to create a more realistic feeling in the game play. Additionally, it would have been a simple

matter of design choice and would have been obvious to one of ordinary skill in the art at the

time the invention was made to incorporate any various types of traits such as a "fear state".

However, Fall Out 2 and Baldur's Gate 2 is silent with regard to how a fear state or

emotional trait would be incorporated within a game when a player character is within proximity

to a fear emitter or the different types of operations that are effected in the game when an

emotional state is changed or effected by different game events.

In an analogous role playing game, Shatterfield teaches of a game known as "Eternal

Darkness: Sanity's Requiem", herein referred to as "ED:SR". As taught by Shatterfield, Eternal

Darkness incorporates a mental state or emotional state of the player character's that are affected

by the events of the game. ED:SR teaches a fear state (*ie: a sanity state*) that adjusts in an

increasing or reducing manner based on its proximity to a fear emitter or enemy (*see*

Shatterfield). Furthermore, ED:SR implements different responses to commands when the fear

state (*ie: sanity state*) reaches a predetermined level (*ie: above a certain threshold state or below*

a threshold state) wherein a character reaction may include a self-destructive act or an act of

incapacitation (*see Shatterfield*).

Regarding claims 18, 21-30, and 35, Fall Out 2, Baldur's Gate 2 and ED:SR implement a

method that adjusts the characteristic traits of the characters and the non-player characters based

on possession of weapons or ammunition that can cause an increase or decrease in the respective

traits (*see nma, 'basic traits', 'skills', 'karma' and 'npcs'; Shatterfield*). Fall Out 2 also

incorporates medicine to adjust the traits of the player characters and a GUI indicator that present

the user with current state of the different attributes and skills (*see nma, 'Character Stats',*

'Items' Shatterfield). However, although Fall Out 2 and ER:SR teach several different types of

emotional traits it fails to teach specifically a "truth state". These special 'traits' or 'states'

symbolize different aspects of human behavior and emotion. They are based upon the same

principles well known in the gaming arts of where different gaming events will effect these

different skills or attributes (*ie: health, sanity state*) and therefore can increase or decrease these

traits in order to mimic attributes of the virtual players. Additionally, as mentioned previously

the attributes that can be attributed to the state of these traits are mentioned above and

incorporated herein. Furthermore, ER:SR allows the state of these emotional states to affect the

virtual mental state of the non-player characters and can have adverse effects within the virtual

gaming world. The options available to a programmer are limitless however they are

nonetheless the same from a technical perspective. As a result there is no patentable distinction

from the sanity state or any other skill state. Therefore it would have been a simple matter of

design choice and would have been obvious to one of ordinary skill in the art at the time the

invention was made to incorporate any various types of traits such as a "truth state".

Regarding claim 32, Fall Out 2 discloses a method wherein an event includes a player

character attacking a monster in a vicinity of a non-player character (*see Desslock*).

Regarding claims 34, 36 and 38, Fall Out 2 discloses a computer game system for

emotion-based character interaction, the system comprising a computer game program having a

module configured to control movement for a squad of user-commandable characters, the squad

including a player character and at least one non-player character, the non-player character being

commandable via the player character (*see "Desselock"*). Additionally, Fall Out 2 discloses a

non-player character module including: a game event detector configured to detect a predefined

game event (*see www.nma-fallout.com, 'character system'*); an emotional state adjustor

configured to adjust a current emotional state of the non-player character based on the game

event (*see www.nma-fallout.com, 'traits', 'npcs', 'skills'*); and a non-player character reaction

selector configured to select a non-player character reaction based on a current emotional state of

the non-player character (*ie: the user is able to select the actions of the non-player character*

based on the characteristic traits of the non-player character)(see www.nma-fallout.com,

'npcs'). Furthermore, Fall Out 2 discloses an attribute with the character wherein when the

emotional state of the non-player character is beyond a predetermined level (*ie: a characteristic*

or attribute of the player character) the non-player character reaction is selected from the group

consisting of a reaction that inhibits the ability of the non-player character to attack or follow

commands of the player character (*ie: see 'npc' "sulik" who attacks when he has reached the*

'slaver' status see www.nma-fallout.com *'npcs'*), a self destructive act, an act of incapacitation

(*ie: hit points have been reduced to 'zero' and the non-player character is dead and can no*

longer move or help), and a reaction of initiating or cooperating in an attack upon an enemy.

In an analogous rpg game, Giovetti teaches in Baldur's gate 2 there exists a reputation

state and non-player characters (npcs) react to the alignment of the player character based on the

reputation and conversation choices made. In the examples taught, "too many good choices and

the evil players, like Edwin, leave the party forever". This shows that when the emotional state

of the non-player characters has reached below a certain threshold the interaction between the

player character and the npcs change and therefore you are unable to interact or command them.

As such, Baldur's Gate 2 teaches an emotional relationship between the player characters and the

npcs where the actions will define a state that can result in the two characters from interacting

with one another. One would be motivated to incorporate such a feature in order to create a

more realistic approach to the game play. By creating an emotional state within the game, it can

simulate the interaction between individual characters and therefore create a more exciting

experience for the player that would make the game more realistic. Therefore it would have

been obvious to one of ordinary skill in the art at the time the invention was made to incorporate

the features of Baldur's Gate 2 with that of Fall Out 2 to create a emotional trust state in a game

to create a more realistic feeling in the game play. Additionally, it would have been a simple

matter of design choice and would have been obvious to one of ordinary skill in the art at the

time the invention was made to incorporate any various types of traits such as a "fear state".

However, Fall Out 2 and Baldur's Gate 2 is silent with regard to how a fear state or

emotional trait would be incorporated within a game when a player character is within proximity

to a fear emitter or the different types of operations that are effected in the game when an

emotional state is changed or effected by different game events.

In an analogous role playing game, Shatterfield teaches of a game known as "Eternal

Darkness: Sanity's Requiem", herein referred to as "ED:SR". As taught by Shatterfield, Eternal

Darkness incorporates a mental state or emotional state of the player character's that are affected

by the events of the game. ED:SR teaches a fear state (*ie: a sanity state*) that adjusts in an

increasing or reducing manner based on its proximity to a fear emitter or enemy (*see*

Shatterfield). Furthermore, ED:SR implements different responses to commands when the fear

state (*ie: sanity state*) reaches a predetermined level (*ie: above a certain threshold state or below*

a threshold state) wherein a character reaction may include a self-destructive act or an act of

incapacitation (*see Shatterfield*).

Response to Arguments

Applicant's arguments with respect to claims have been considered but are moot in view

of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communication from the examiner

should be direct to Ryan Hsu whose telephone number is (571)-272-7148. The examiner can
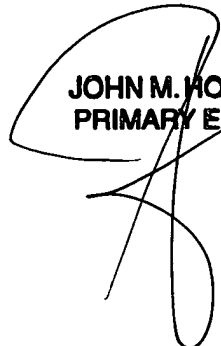
normally be reached on M-F 8:30 AM - 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Robert E Pezzuto can be reached at (571)-272-6996.

Information regarding the status of an application may be obtained from the Patent

Application Information Retrieval (PAIR) system. Status information for published applications

may be obtained from either Private PAIR or Public PAIR. Status information for unpublished

applications is available through Private PAIR only. For more information about the PAIR

system, contact the Electronic Business Center (EBC) at 1-866-217-9197 (toll-free).

RH

December 19, 2007

JOHN M. HOTALING, II
PRIMARY EXAMINER